

PATENT

Appl. No. 10/057,280
Amdt. dated November 13, 2003
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group

REMARKS/ARGUMENTS

Claims 12-13, 15-18, and 28-29 are pending. No claims have been amended or added by this response.

In the office action mailed June 4, 2003 including final rejection of the pending claims, the Examiner rejected claims 12-13, 15-18, and 28-29 as obvious under 35 U.S.C. 103 in light of U.S. patent no. 6,302,965 to Umotoy et al. ("the Umotoy patent"), considered in light of the U.S. patent application no. 2002/00000196 to Park ("the Park Application"). These claim rejections are traversed as follows.

As a threshold matter, it is noted that the Umotoy patent issued on October 16, 2001, less than one year prior to the January 25, 2002 filing date of the instant application. Accordingly, the Examiner has relied upon the Umotoy patent as prior art under 35 U.S.C. 102(e).

It is further noted that the Umotoy patent is assigned to Applied Materials, Inc., also the owner of the instant application. A copy of the recorded assignment of the instant application to Applied Materials, Inc. is submitted herewith for the Examiner's reference.

The Examiner is respectfully reminded that as recently amended, 35 U.S.C. 103(c) reads as follows:

§ 103 Conditions for patentability; nonobvious subject matter

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. (Emphasis added)

Based upon the status of the Umotoy patent as prior art under 35 U.S.C. 102(e), and its common ownership with the instant application, it is understood the Umotoy patent is not eligible prior art for an obviousness rejection of the pending claims. Accordingly, it is respectfully asserted that continued rejection of the pending claims as obvious based upon the Umotoy patent is improper, and these claim rejections should be withdrawn.

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In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is urged. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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